Sectt. II-27—1d

Der (1951) Departme

Ms SERIES.

G.O. NO. 36

Dated 1 — 51

[Despatch Abstract.]

Acts and Rules — Cooperative Societies A[redacted]

The South Kanara Central Cooperative Bank L[redacted]

Steps — Amendment to Bylaws — Cancell[redacted]

Appeal against Cancellation — Petition — R[redacted]

Application for registering the amendment was made accordingly to the Deputy Registrar of C. S., Mangalore with a certificate from the Directors as required under the Act and Rules and the amendment was duly registered by him in his R.C.2187/49-C dated 28-6-1949. Subsequently, the Deputy Registrar of C. S., Mangalore in his reference No.3 cited disregistered the same amendment, holding that the said amendment was against the rules framed under the Madras Co-op. Societies,Act without giving opportunity for the Stores to clarify the point.

Later on the Registrar of Co-op. Societies, Madras in his R.C.106378/49-S(1) dated 30-11-1949 called for any objections on the part of this Stores for disregistering the amendment registered by the Deputy Registrar maintaining that the amendment was inconsistent with rule XII(d) of the Rules framed under the Madras Co-op. Societies Act. The Stores submitted its objection in its Ref.R.C.304/49-A dated 9-12-1949 but, the Registrar in his R.C.106378/S1 d/ 8-2-1950 cancelled the amendment on the ground that the amendment above-said does not satisfy the requirements laid down in the rule XII(d).

Bylaw No.40(3) of the Stores provides for the utilisation of the Common Good Fund for the purposes mentioned in section 2 of the charitable endowments Act VI of 1890 and the amendment adopted is a word for word extract from the said section which reads.

In this act, 'charitable purpose' includes relief of the Poor Education, Medical relief and the advancement of any other object of general public utility but does not include a purpose which relates exclusively to religious teachings or worship.

The amendment adopted is therefore clear on the point and there is no departure whatsoever from the purposes specified in the charitable endowments act. These are clear (though not quite specific) as required under rule XII(d) of the rules framed under the Madras Co-op. Societies Act. The rule does not also prescribe that the purposes for which the common good fund should be utilized should be specific and the amendment adopted does not in anyway offend the rules.

I pray therefore that the Government may be pleased to order the registration of the amendment adopted by the general body of the Stores.

Yours faithfully,

M. Srinivasan

President.

Copy to the Registrar of C. S., Madras.
Copy to the Dy. Registrar of C. S., Mangalore.

Ur/-

Endt. no. 107057 Bll/50-1 dated 28.10.50

Dev. Bll

Referred to the R.C.S. for remarks. He is also requested to send Connected records for reference and return.

To the R.C.S

TELEGR "FOOD" TELEPHONE: No. 127

S. K. Central C[illegible]td., No. L. 472

Box No. 124, MANGALORE.

Ref. No. R.C.304/49-A 13th Sept., 1950

From

Sri M. Shiva Rau, President,
S.K.C.C.W. Stores, Ltd.,
MANGALORE.

To

The Secretary,
Government of Madras,
(Dept. of Local Administration & Co-operation),
Fort St. George, MADRAS.

Sir,

Sub: Amendments - Ammendment to the Bylaws of the South Kanara Central Co-operative Wholesale Stores - Bylaw 40(3) - Registration of amendment - Cancellation of - Appeal.

Ref: 1. This Office Ref. dated 17-5-49 to the Deputy Registrar communicating copy of resolution of the General Body meeting held on 8-5-49.
2. Amendment Certificate R.C.2187/49-C dated 28-6-1949 from the Deputy Registrar of C.S., Mangalore.
3. R.C.4840/49-C. dated 7-11-1949 of the Deputy Registrar of C. S., Mangalore disregistering the amendment.
4. Notice R.C.106378/49-S.1. dated 30-11-1949 from the Registrar of C. S., Madras.
5. Objection petition Ref.304/49-A dated 9-12-49 from this Office (Stores) to the Registrar.
6. Registrar's R.C.106378/49-51 dated 8-2-1950 cancelling the amendment.

* * *

Being dissatisfied with the Order of the Registrar of Co-operative Societies in his reference No.6 cited above cancelling the amendment certificate issued by the Deputy Registrar of Co-operative Societies, Mangalore in his Ref. No.2 cited, I submit the following appeal to the Government against the said Order.

In the meeting of the General Body of the Members of this Stores held on 8-5-1949, it was unanimously resolved that the following amendment to Bylaw No.40(3) of the Stores be adopted.

"Bylaw No.40: In clause (3) substitute "Medical relief" for sanitation and add at the end -
"and also the advancement of any other object of public utility not relating exclusively to religious teachings or worship".

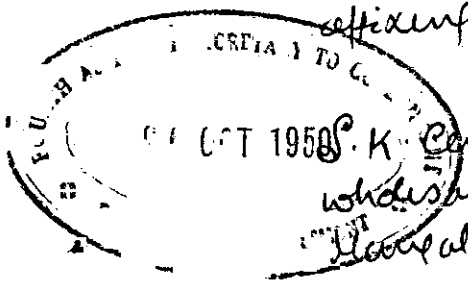
Contd.

By. Regd. Post

Resubmitted to the Secretary to the Government of Madras Development Dept. with ref to memorandum No. 95446-B II/56-1 dated 25-9-1956 after affixing Court fee Stamps worth Rs 2/-

107057 E II/56

K Nithanandam
Secretary.



S. K. Central Co-op. wholesale stores Ltd Madras 17 - 10 56

Dev. B II

Encl. no. 107057 B II/56-1 dated 1

Referred to the Registrar

CO-OPERATIVE DEPARTMENT

From
Sri K.Subrahmanyam Nayudu, Secretary to Government,
Registrar of Cooperative Societies, Development Department,
Madras. Fort St. George,
MADRAS.

ASSISTANT SECRETARY TO GOVERNMENT
RECEIVED 21 NOV 1950
DEVELOPMENT DEPARTMENT

R.C.125292/50 S. Dated 19-11-1950.

Sir,

117120

Sub:- The South Kanara Cooperative Wholesale Stores, Mangalore - Certain amendments to bylaw No.40 - Registration - Cancellation of - appeal -

Ref:- Government endorsement No.107057 BII/5011 Development dated 28-10-1950 communicating a copy of petition dated 13-9-1950 from the President of the Stores.

The petition under reference is an appeal against my order disregistering the amendment to bylaw No.40 of the South Kanara Cooperative Wholesale Stores registered by the Deputy Registrar Mangalore in his letter R.C.No.2187/49-C dated 28-6-1949. The references cited by the petitioner are in the disposals of the Deputy Registrar's office sent herewith as indicated below:-

Item 1 and 2	pages 3 and 15 in R.Dis.2187/49 C.
Item 3	pages 7 ~~and~~ 8 in R.Dis.4840/49 C.
Items 4 to 6	pages 1, 7 & 15 in F.Dis.5368/49C.

The amendment is to add the following to the existing bylaw and also the advancement of any other object of public utility not relating exclusively to religious teachings and worship.

P.T.O.

6/

Under Rule XII(d) of the Rules framed under the Madras Cooperative Societies Act, the purpose to which the Common Good Fund can be spent, should be clearly defined in the bylaws. The amendment adding the words ' any other object of public utility' introduces an element of vagueness of the purpose for which the fund can be spent and is thus inconsistent with Rule XII (d). The society admits that the purpose is not specific, although at the same time it says that it is clear. The amendment was therefore disregistered by me in my proceedings No.106378/49 S.1. dated 8-2-1950 (page 15 in disposal No.F.Dis.5368/49 C). No fresh grounds have been put forward by the petitioner in his appeal for setting aside my order. The appeal may be rejected. The following disposals are sent herewith for reference and return:-

Disposals of the Deputy Registrar Mangalore:

(1) R.Dis.2187/49 C (28 + 4 pages) (M)
(2) R.Dis.4840/49 C--- (12 + 2 pages) (H)
(3) F.Dis.5368/49 C (20 + 2 pages) (B)
(4) My Office disposal, D.106378/49 S.1: (40 + 2 pages) (R)
(5) A copy of the bylaws of the petitioner-society. (A)

TDV/20.11.

for Registrar.

20/11/50

Enclosures :- Five (Four disposals + Reference copy)

Pl issue
Dec 25/11/57

4J
5/1

Dev. Dept

7

Subj: Acts and Rules - Cooperative Societies Act - The South Kanara Central Cooperative Wholesale Stores - Amendment to bylaws - Cancellation - Appeal against cancellation - Petition - Rejected.

C.No. 107057 Bill/50

Mr 1-2 Cy

Mr 5-6 Cy

Read: From the President, South Kanara Central Cooperative Wholesale Stores, petition dated 13.9.50.
From the R.C.S. Rc No 125292/50. S.1 dated 19.11.50

Order No 36 Ms Dev & 25/1/51

The petition is rejected.

Dev 30/12/50 dy 24/1/51.

Pn 24/1/51.

To The President, South Kanara Central Cop Wholesale Stores Ltd. Mangalore. } By Reg Post.

R.C.S. (With records as per Dev. Dy No 112)

9/1

P.T.

List of records

1. Copy of Bylaws of the South Kanara Central Co-op. Wholesale Store. (P7)
2. R. Dis. 5368/49-C. (SK. file) of the Office of the DR. Mangalore. (P8)
3. R Dis. 2187/49-C dt 7.10.49 of the Office of DR. Mangalore (M)
4. D. 106378/49-S dt 21.3.50 of the office of the RCS (R1)
5. R Dis. 4840/49-C dt 10.11.50. of the Office of the Dy R Mangalore. (H)

Dad 30/1

Devt.Dept.

Sub:- Acts and Rules- Cooperative Societies Act- Amendment to bylaws of South Kanara Cooperative Wholesale Stores, Mangalore- Certain amendments to Bylaw No.40-Held Irrigu Appeal under Section 12(2).

Ref:- From the President, South Kanara Cooperative Wholesale Stores, Mangalore Rc.No.304/49-A, dated 15-9-50.
Endt. No.107057-B.II/50-1, dated 28-10-50.
From the R.C.S., Rc.No.125292/50-S.I, dated 19-11-50.

This file deals with an appeal petition from the President of the South Kanara Wholesale Coop.Stores, Mangalore, against the order of the R.C.S. in his proceedings to 106378-49-S.I, dated 8-2-1950 cancelling an amendment to bylaw 40 of the bylaws of th Stores.

2. In his proceedings No.Rc.2787/49-C, dated 28-6-1949 the Dy.Regr. registered an amendment to bylaw 40 of the bylaws of the stores. On receipt of a copy of the amendment, the Regr. found the amendment to be inconsistent with the rules framed under the Coop. Societies Act. When this was pointed out to the Dy.Regr., the latter immediately disregistered the amendment. As disregistering amendments to bylaws has to be done, under Section 57 of the C.S.Act, and as the D.R. is not empowered to exercise the powers of the Regr. under this section, the Regr. passed orders under section 57 cancelling the amendment. The present appeal is against the above orders of the Regr.

3. The preliminary question that arises in connection with the appeal is whether it is entertainable by Government and if so under what Section of the Coop.Societies Act.

Under Section 12(2) of the Coop.Societies Act an appeal lies to the State Govt. in case of refusal by the Registrar to register an amendment. The time allowed for appeals under this Section is two months from the date of issue of the order of refusal by Registered post. In the present case, there was no refusal by the Dy.Regr. (who has been vested with the powers of the Regr. under Section 12) to register the amendment. The amendment was duly registered by him, but was later on cancelled by the Regr. under Section 57 of the C.S.Act. It does not therefore appear that the appeal can be entertained under Section 12 (2) of the C.S.Act. Moreover the time limit of 2 months allowed under this section for appeals had expired before the appeal was presented to

Under Section 57 of the C.S.Act, the Govt. or the Regr. may

call for and examine the record of any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and may pass such order as they deem fit. In the case under consideration the Regr. has already exercised the powers vested in him under section 57. In another case Legal Dept. have expressed the view that it is doubtful whether it will be open to the Govt. under Section 57, to revise the orders of the Regr. passed under that section. It does not therefore seem advisable to consider the present appeal under section 57 of the C.S.Act. B.

Legal may see for remarks with reference to 'A' above & 'B' above.

(The appeal will be examined on its merits if the Legal Dept. advise that the appeal is entertainable)

8/12/50 10/12/50 D.S. 11.02-50

Legal

Dev. no 107057 B II/50-1
12.12.50

O/DS

Legal Deptt.

This Deptt agrees with the views expressed by Deptt at A & plants and B above

ASSISTANT SECRETARY 19848 13 DEC 1950 LEGAL DEPARTMENT

Deptt 14/12/50 Dev. 127436 B II/50 19.12.50

Legal no 19848/50-1
14.12.50.

Dev. Deptt

Notes on pp 1-2 above may be perused. Appropriate orders whether the appeal petition may be rejected.

22/12/50. 23/12/50 D.S. 26.12.50

ASSISTANT SECRETARY TO GOVERNMENT 16 DEC 1950 DEVELOPMENT DEPARTMENT

A Deptt. order is forwarded for approval

Deptt 21/12/50 (21.12.50) 27/1/51 29.12.50.